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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,316	03/01/2002	Adrian John Wayneorth Angell	7765XC	2096

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,316

Applicant(s)

ANGELL ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 13, 2003 has been entered.

2. Claims 1-5, 7-20 are pending. Claims 12-20 are withdrawn from consideration.

3. The rejection of claims 1-3 and 7-9 under 35 U.S.C. 103(a) as being unpatentable over Nebashi et al. (US Patent No. 4,992,198) is withdrawn in view of applicants' amendment and arguments therein.

4. The rejection of claims 1-5 and 7-10 under 35 U.S.C. 103(a) as being unpatentable over Surutzidis et al. (WO 98/12298) is withdrawn in view of applicants' amendment and arguments therein.

5. The rejection of claim 11 under 35 U.S.C. 103(a) as being unpatentable over Surutzidis as applied to the above claims, and further in view of Shindo et al. (US Patent No. 5,853,430) is withdrawn in view of applicants' amendment and arguments therein.

Claim Objections

6. Claim 1 is objected to because of the following informalities: "said" in line 8 after "1200 microns" should be deleted. It is also suggested that the term "(c)" before "said laundry" in line 10 be deleted because (c) does not appear to be an ingredient of the product as in (a) and (b). Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-3, 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trinh et al. (US Patent No. 5,783,552), hereinafter "Trinh".

Trinh teaches improved solid dryer-activated fabric softener compositions which are in the form of particles including, where appropriate, agglomerates, pellets, and tablets of said particles (see col. 4, lines 31-40). Trinh also teaches that the free or uncomplexed cyclodextrin and any optional perfume/cyclodextrin complexes are incorporated into fabric conditioning compositions, especially when the compositions are to be added to laundry detergents (see col. 10, lines 41-45; col. 11, lines 44-51). This free or uncomplexed cyclodextrin is equivalent to the cyclodextrin powder having unfilled cavities of the present claims. In example 7, Trinh teaches the preparation of detergent-compatible softener particles wherein uncomplexed, ground cyclodextrin and calcium bentonite clay is added to a mixture of fabric softening agents, coated and resized through 11 on 26 mesh U.S. Standard screens (0.6-1.7 mm) (600 to 1700 microns), for blending into detergent granules which comprises surfactants, builders and enzymes (see col. 16, line 37 to col. 18, line 9). Trinh, however, fails to specifically disclose softener particles comprising uncomplexed dextrin and clay with an aqueous medium and the odor loading factor of the cyclodextrin as those recited.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the softener particles of Trinh, (particularly in the absence of a substantial amount of aqueous medium in the present claims), which particles comprises fabric softening agents, free or uncomplexed cyclodextrin and clay, to have at least a small amount of moisture present in each of these ingredients, or in their combination because of the very nature of these particles which may contain bound moisture. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the

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cyclodextrin of Trinh to have an odor loading factor as those recited because the same uncomplexed cyclodextrin in a similar composition has been utilized.

Allowable Subject Matter

10. Claims 4-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: In Trinh reference, the closest prior art of record, there is found no motivation, direction or guidance in substituting the bentonite clay, which is a fabric softening agent, with aluminosilicate or zeolite, which is a known builder.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of Trinh '806 and Trinh '408 teaches substantially the same features as in Trinh above.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272 1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272 1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 9310.

Lorna M. Douyon
Lorna M. Douyon
Primary Examiner
Art Unit 1751